

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 19, 2021

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MICHAEL COMTE,

Petitioner,

v.

STATE OF WASHINGTON

DEPARTMENT OF CORRECTIONS

INDETERMINATE SENTENCE

REVIEW BOARD and LORI

RAMSDELL-GILKEY,

Respondents.

No. 2:20-CV-00364-SAB

**ORDER DISMISSING
PETITION WITHOUT
PREJUDICE**

By Order filed December 3, 2020, the Court denied Petitioner's Motion to Convert the Nature of Suit/Cause of Action and directed Petitioner to show cause why this action should not be dismissed without prejudice for failure to assert habeas corpus jurisdiction. ECF No. 9. Petitioner, a prisoner at the Airway Heights Correction Center, has not paid the \$5.00 filing fee to commence this action or provided a completed application to proceed *in forma pauperis* as required by Rule 3(a)(2), Rules Governing Section 2254 Cases in the United States District Courts.

ORDER DISMISSING PETITION WITHOUT PREJUDICE -- 1

1 The Court cautioned Petitioner that his failure to show cause would be
2 construed as his consent to the dismissal of this action. Petitioner has filed nothing
3 further. For the reasons set forth in the Court's prior Order, ECF No. 9, **IT IS**
4 **ORDERED** that the Petition, ECF No. 1, is **DISMISSED without prejudice**.

5 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
6 enter judgment, forward copies to Petitioner, and **CLOSE** the file. The Court
7 certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could
8 not be taken in good faith, and there is no basis upon which to issue a certificate of
9 appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of
10 appealability is therefore **DENIED**.

11 **DATED** this 19th day of January 2021.



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A handwritten signature in blue ink, reading "Stanley A. Bastian". The signature is written in a cursive style with a horizontal line underneath the name.

17 Stanley A. Bastian
18 United States District Judge
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